

II. Remarks

The Examiner's careful attention in this case is appreciated. In the present amendment, claims 4, 7, 8, 11, 12, 18 and 23 are cancelled; the former independent claims 5, 6 and 13 are restated as new claims 27, 28 and 29; the dependent status of 2, 9, 10, 14-17, 19-22, 24-26 is amended to conform to restated claims 27, 28 and 29. New claims 30-32 are added to better define the invention. Thus claims 2, 9-10, 14-17, 19-22 and 24-32 are presented for reexamination.

The present amendment and response is particularly directed to the Examiner's comment set out below:

Applicant further remarks that Cheruvu does not address the blending goals nor the consequent achievements of the melt blends of previously melted and solidified resins as addressed in the instant specification and claims. However, the specification as originally presented does not teach the blends as presently claimed.

In the Applicant's preceding response filed on April 28, 2003, applicant sought to distinguish the claimed subject matter by referring to the compositions blended "previously melted and solidified" compositions, in contrast with the ethylene polymers produced in a reactor by Cheruvu. Typically manufacturers pay a premium for such virgin HDPE materials having special properties. Paragraph 0007 of the Specification describes an object of the invention ...

... to disclose a lower cost and more flexible method of providing HDPE compositions for corrugated plastic pipe than as polymerized multimode polyethylenes.

Paragraph 0004 relates:

Ideally, the corrugated pipe manufacturers would prefer to purchase lower cost off specification, wide specification, reprocessed and recycled polyethylene components that they blend to meet the appropriate AASHTO standards.

At Paragraph 0009, the Specification describes a further object ...

... to provide the corrugated HDPE pipe and fittings manufacturers, the opportunity to vary the blend ratios of virgin, recycled, off specification, wide specification, reprocessed and regrind HMW and low molecular weight HDPE's to obtain the required combination of physical and process properties of pipe and fittings.

Th[e] invention provides the benefit of blending recycled, reprocessed, wide and off specification and virgin HDPE's to provide corrugated HDPE pipe and fittings material compositions having enhanced physical properties and processing characteristics capable of meeting and exceeding AASHTO standards.

The blending method and the blend of the invention contrast with the conventional, and expensive, specially polymerized ethylene polymer, such as made by Cheruvu, and allows the manufacture of pipe and fittings having the properties desired using HDPE compositions of varying commercial grades, such as virgin pellets, recycled, reprocessed, off specification, and wide specification grades. [See also: Petition to Make Special, filed on September 12, 2002.]

Accordingly, so that the claims reflect the subject matter of the Specification, the former "previously melted and solidified" language is replaced by "[a polymer] selected from the group of virgin pellets, recycled, reprocessed, off specification, and wide specification grades of HDPE," language specifically quoted from the Specification. [See Paragraphs 0009, 0010, 0024]. Thus,

applicant submits that the rejection of the claims based on 35 USC Section 112 should be withdrawn.

Considering the Examiner's comment that the "consequent achievements of the melt blends of previously melted and solidified resins as addressed in the instant specification and claims" had not been addressed by the amendment filed on March 28, 2003, applicant submits that the present amendment specifically addresses the "consequent achievements of the melt blends" produced using the materials "selected from the group of virgin pellets, recycled, reprocessed, off specification, and wide specification grades of HDPE" allowing manufacturers to reprocess different grades of available resins to achieve added economy and flexibility over virgin reactor produced ethylene polymers, such as described by Cheruvu. Thus, as now claimed, the blends and methods correspond specifically to the blends and achievements as originally presented in the specification, and are considered to be patentably distinguishable over Cheruvu. Cheruvu produces powder and flake ethylene in a catalyst reactor, controlling molecular structure by varying reaction parameters, to achieve a desired result; the applicant uses already available commercial grades of polymers, and by blending the grades in the manner claimed, achieves the end product qualities from polymer raw materials, as opposed to ethylene gas.

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STATEMENT PURSUANT TO 37 CFR § 1.116

Consistent with the final action, the application has been amended to more particularly point out and distinctly claim the subject matter of the invention. This amendment, *inter alia*, restates former independent claims to conform the claim terminology to the language of the Specification.

The subject matter of this amendment was not submitted earlier because applicant did not, until now, fully appreciate the reasons given by the Examiner for the previous rejections under 35 USC § 102 and § 103. In the March 28, 2003 amendment, applicant made a good faith effort to advance prosecution, however, the claims are now stated to reflect the achievements of the invention related in the Specification consistent with the examiner's remarks in the final action.

Reconsideration of the claims is respectfully requested in view of the present amendment.

CONCLUSION

For the foregoing reasons, applicant submits that the present amendment is a proper amendment after final rejection under 37 CFR § 1.116 and should therefore be entered. As evidenced by the foregoing amendments and remarks, it is respectfully submitted that the present application is in form to be considered for allowance. A notice of allowance is requested. Should the Examiner have any questions or suggestions in view of the foregoing, applicant's undersigned attorney

requests that the Examiner initiate a telephone call to expedite prosecution of the application.

To allow entry and consideration of this response, a petition for extension of time to December 16, 2003 accompanies this submission.

Respectfully submitted,

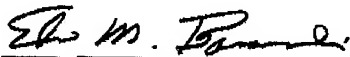


Edwin M. Baranowski
[Reg. No. 27,482]

PORTER, WRIGHT, MORRIS & ARTHUR LLP
Columbus, Ohio 43215
(614) 227-2188
Fax: (614) 227-2100
E-mail: Ebaranowski@porterwright.com

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I hereby certify that this **AMENDMENT AND RESPONSE TO THE FINAL ACTION MAILED ON JULY 16, 2003** is being filed by facsimile to 703-872-9311, Attention Examiner Thao T. Tran, Group 1711 [c/o Mail Stop AF Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450] on November 4, 2003.



Edwin M. Baranowski

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